

S.B.Civil Writ Petition No.4090/2007

Smt. Hurapi and another.

VS.

Judge, MACT (Fast Track), Banswara and others.

Date : 17.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.M Trivedi, for the petitioners.

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Heard learned counsel for the petitioners.

According to the petitioners, originally, motor accident claim case was filed in Baroda being case no.235/2002. In that claim case at Baroda, the petitioners were also party claimants. During pendency of the claim case no.235/2002, without withdrawing the same, the present petitioners, wife and son of the deceased, filed another claim case in Motor Accident Claims Tribunal (Fast Track), Banswara. When an objection was raised about filing of two claim petitions by the same applicants for getting the claim because of death of same person, the present petitioners withdrew their claim from claim case no.235/2002 and said claim case no.235/2002 is being

continued by the mother of the deceased. Before the MACT (Fast Track), Banswara, an objection was submitted by the respondents that two claim petitions cannot proceed together. The objection was that the basic question for grant of claim is whether there was rash and negligent driving by the driver or whether the insurance company is liable or not ?

The MACT (Fast Track), Banswara stayed the further proceedings in subsequently filed claim petition by order dated 11.11.2005. Hence, this writ petition.

It is clear from the facts mentioned above itself that the petitioners themselves filed two claim petitions in two different Courts in two different States. When objection was raised by the respondents, then only, the petitioners withdrew the claim petition which was filed earlier in time at Baroda and said petition is continued by one of the legal heirs of the deceased. By this mode, for the reasons best known to the petitioners, they want to continue two claims. In that situation, the learned Tribunal has no option but to stay the proceedings of this claim petition. Otherwise, there would have been two decisions on questions of fact like cause of death and consequential liability of any party.

In view of the above, this Court is not inclined to interfere in the impugned order passed by the Tribunal staying the proceedings in the subsequently filed claim petition.

Consequently, this writ petition, having no merits, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya